

**Supreme Court of the State of New York
Appellate Division: Second Judicial Department**

D17710
C/hu

_____AD3d_____

Argued - September 28, 2007

REINALDO E. RIVERA, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON, JJ.

2006-07364

DECISION & ORDER

Marino Mazzei, appellant, v Antonio Licciardi,
defendant, Adele Licciardi, respondent.

(Index No. 20778/04)

John P. Gulino, P.C. (Arnold E. DiJoseph, P.C., New York, N.Y. [Arnold E. DiJoseph III] of counsel), for appellant.

Caruso, Caruso & Branda, P.C., Brooklyn, N.Y. (Mark J. Caruso and Grace M. Borrino of counsel), for respondent.

In an action to foreclose a mortgage, the plaintiff appeals from an order of the Supreme Court, Kings County (Ruditsky, J.), dated June 21, 2006, which, inter alia, granted the motion of the defendant Adele Licciardi for leave to reargue those branches of the plaintiff's motion which were to strike the answer by that defendant and for summary judgment on the complaint insofar as asserted against that defendant, and the prior cross motion of that defendant for leave to serve an amended answer, which were determined in an order of the same court dated October 14, 2005, and, upon reargument, among other things, vacated the order dated October 14, 2005, granted the cross motion of that defendant for leave to serve an amended answer, and granted further discovery.

ORDERED that the order is affirmed, with costs.

“Motions for reargument are addressed to the sound discretion of the court which decided the prior motion and may be granted upon a showing that the court overlooked or

misapprehended the facts or law or for some [other] reason mistakenly arrived at its earlier decision” (*Carrillo v PM Realty Group*, 16 AD3d 611; *see E.W. Howell Co., Inc. v S.A.F. La Sala Corp.*, 36 AD3d 653, 654). Contrary to the plaintiff’s contention, the court providently exercised its discretion in granting the motion for leave to reargue.

Upon reargument, the court properly vacated the order dated October 14, 2005, and, inter alia, granted further discovery (*see CPLR 3212[f]; Levy v Board of Educ. of City of Yonkers*, 232 AD2d 377, 378; *Baron v Incorporated Vil. of Freeport*, 143 AD2d 792, 792-793).

The plaintiff’s remaining contentions are without merit.

RIVERA, J.P., COVELLO, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court